In the High Court of Uttranchal at Nainital.

Criminal Misc. Application no. 532/2001
(Old No. 2572 of 1997)

Manoj Kumar … Petitioner.

Vs.

Smt. Rajeshwar Devi and others …Respondents.

Hon'ble Irshad Hussain, J.

None appear for the petitioner. Heard Sri H.C.Pandey learned A.G.A. and perused the record.

2- By means of this petition under section 482 of the Code of Criminal Procedure (for short 'Code') the petitioner has prayed for quashing of the impugned order dated 8-11-1996 passed by the learned Additional C.J.M. Dehradun in criminal case no. 435/1995 and order dated 19-11-1996 passed by the Sessions Judge, Dehradun in criminal revision preferred by the petitioner against the order passed by the Additional C.J.M., Dehradun under section 203 of the 'Code' dismissing the criminal complaint case.

3- The written complaint was filed by the petitioner against respondent no.1 alleging commission of offence under section 406, 420, 323, 504, 506 I.P.C. Both the petitioner-complainant and respondent no.1 were serving in police department at the relevant time. The complainant is said to have lent sum of Rs. 2000-00 to respondent no.1 on 14.5.1993 and when he went to make a demand of the money from her on 14-8-1993 he was assaulted and told that no money had been borrowed by her from him. The learned Magistrate on perusal of the evidence as adduced under section 200 and 202 of the 'Code' found that prima facie case was not made out to summon the accused and the complaint was therefore dismissed under section 203 of the 'Code' as stated above. The learned Magistrate took note of the fact that the respondent no.1 had also lodged a report regarding misconduct of the petitioner towards her when she on false pretext

was called from her house to the police station. The allegations levelled by the respondent-accused were quite serious which could not have easily been made against a colleague and considering the totality of the circumstances of the case the learned Magistrate found the allegations of the complaint filed by the petitioner as false and as made out on account of ill-will and to meet out the complaint of the respondent no.1 filed against him. The learned Sessions Judge has also perused the material on record in proper perspective and found favour with the view taken by the learned Magistrate and had dismissed the revision.

4- Having perused both the judgments I see no reason to differ with the views of the courts below and since the evidence was not sufficient to make out prima facie case against respondent no.1 the Magistrate had rightly dismissed the complaint by order dated 8-11-1996. The judgment and order of the revisional court also does not suffer from vice of impropriety and therefore there being no merit in this petition the same is liable to be dismissed.

5- The petition is dismissed.

(Irshad Hussain, J.)

Dated: 9-4-2004

ISB